

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Newport News Division

JOANN WRIGHT HAYSBERT	)	
Plaintiff,	)	
v.	)	
	)	
BLOOMIN' BRANDS, INC.,	)	Case No.: 4:20-cv-00121-RBS-DEM
and	)	
OUTBACK STEAKHOUSE OF	)	
FLORIDA, LLC,	)	
Defendants.	)	

**AFFIDAVIT**

Personally appeared before me John D. McGavin, who after being duly sworn, testified as follows:

1. I, John McGavin, am a member of the Virginia Bar, Bar No: 21794, with an office at 9990 Fairfax Boulevard, Suite 400, Fairfax, Virginia 22030.

2. I represent Outback Steakhouse and Bloomin' Brands, Inc. in the litigation styled: Haysbert v. Outback, et al., Case No.: 4:20-cv-00121-RBS-DEM.

3. I was trial counsel in the above-referenced matter during the trial in August 2023, which related to the pending Motion for Sanctions and attorney's fees following the mistrial and revocation of the *pro hac vice* status of Nazareth Haysbert.

4. After the plaintiff, Dr. Joanne Haysbert requested a new trial on this matter, the court scheduled a trial in February 2024. In conjunction with that trial, counsel and Dr. Haysbert were required to have a meet-and-confer to discuss the Pretrial motions, exhibits and witnesses, and any logistical issues which might be related to preparing and presenting the case for trial.

5. I appeared, along with my partner, Emily Blake, for the first meet-and-confer with Dr.

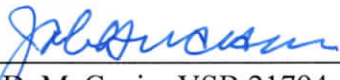
Haysbert on December 12, 2023. Plaintiff initially requested that the meet-and-confer take place over Zoom, however, on the day of the meet-and-confer, Dr. Haysbert indicated that she could not connect to the Zoom and therefore we conducted the call by phone. During this phone call, Dr. Haysbert would continuously mute herself for extended periods of time whenever I asked her a question. When asked if she was conferring with someone, Dr. Haysbert represented that her daughter was assisting her. At one point, I heard a male voice on the call that I recognized as Nazareth Haysbert. The phone was quickly muted after that. When Dr. Haysbert unmuted herself, I asked Dr. Haysbert if anyone else was participating and she either stated 'no' or stated that her son was in and out of the room. The phone call took over 30 minutes, in part, because Dr. Haysbert was constantly muting herself every single time a question was asked.

6. I appeared, along with my partner, Emily Blake, for the second meet-and-confer with Dr. Haysbert on December 18, 2023 by phone. As we discussed the various motions *in limine* we intended to file and the proposed Pretrial list, Dr. Haysbert indicated that she did not understand this matter and was not qualified to proceed. At that point, Nazareth Haysbert took over the call on behalf of Dr. Haysbert. He advocated for her that Dr. Haysbert was suffering a brain injury and could not proceed and could not find counsel. He also announced that she would be seeking a voluntary dismissal without prejudice and asked for the defense to consent to this request. The call was combative and argumentative, and it was clear that Nazareth Haysbert has been involved in this case even after his *pro hac vice* status was revoked and he was removed as Dr. Haysbert's attorney.

I ended up leaving the call since it was clear Mr. Haysbert was not listening and left Ms. Blake to complete the call. It was a one-sided conversation with Mr. Haysbert talking over both myself and Ms. Blake and it was totally unproductive. I doubt Mr. Haysbert even knows that I left


the call. In my opinion, this conduct demonstrates Mr. Haysbert's complete lack of contrition or remorse regarding the events that led to the mistrial and our request for costs and attorney's fees.

I swear and affirm the statements contained herein are true and correct to the best of my knowledge.

  
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John D. McGavin, VSB 21794  
MCGAVIN, BOYCE, BARDOT, THORSEN & KATZ, P.C.  
9990 Fairfax Boulevard, Suite 400  
Fairfax, Virginia 22030  
Telephone: (703) 385-1000  
Facsimile: (703) 385-1555  
[jmcgavin@mbbtklaw.com](mailto:jmcgavin@mbbtklaw.com)  
Counsel for Bloomin' Brands Inc.  
and Outback Steakhouse of Florida, LLC

STATE OF Virginia;  
CITY/COUNTY OF Fairfax, to-wit;

Subscribed, sworn, and acknowledged to before me on this 17<sup>th</sup> day of  
January, 2024 by \_\_\_\_\_, in person and with proof of true identity.

  
\_\_\_\_\_  
Notary Public  
Name: Charlene W. Notarangelo  
(Please Print)

My Commission Expires: 4-30-27  
Registration Number: 7506244

